477

SUPREME COURT OF THE UNITED STATES.

No. 35.

JOHN W. BROWN, MOSES GROVES, R. M. ROBERTS, AND JAMES GRAHAM, PLAINTIFFS IN ERROR.

vs.

ROBERT SLAUGHTER.

IN ERROR TO THE CIRCUIT COURT U. S. FOR EAST LOUISIANA.

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S. D. Langtree, Print.

UNITED STATES CIRCUIT COURT,
9th Circuit Court, and Eastern District of Louisiana.

Be it remembered, that on the 5th day of April, 1838, came into court, Robert Slaughter, by his attorney, and filed the following petition, in the words and figures following, to wit:

To the honorable the judges of the circuit court of the United States, for the 9th judicial circuit, and eastern district of Louisiana.

The petition of Robert Slaughter, a citizen of the State of Virginia, respectfully shews: that John W. Brown, R. M. Roberts, Moses Groves, and James Graham, all of whom are citizens of the State of Louisiana, and parish of Madison, are justly and truly indebted in solido, unto your petitioner, in the full sum of seven thousand dollars, with eight per cent. interest per annum, from the 23d day of December, 1837, together with three dollars and fifty cents, costs of protest, for this, viz.: that your petitioner is holder and owner of a certain promissory note for the sum of seven thousand dollars, drawn by the said John W. Brown, payable to the said R. M. Roberts, or order, at Natchez, (Mississippi) and endorsed by the said R. M. Roberts, Moses Groves, and James Graham, dated at Natchez, on the 20th day of December, 1836, and payable and negotiable, twelve months after date, at the Commercial Bank of Natchez; (Mississippi) which said promissory note was duly protested for non payment, (after having been legally presented for payment) at the said bank, at Natchez, (Mississippi) on the 23d day of December, 1837, and due notice of said presentation and protest was given to the said defendants, all which will more fully appear by reference to the said promissory note, and to the protest thereof, which are hereunto annexed as a part of this petition; that said endorsers were never the holders and owners of said note, but were mere accommodation endorsers.

Petitioner further alleges that the said defendants, (although thereunto amicably requested) refuse to pay the amount for which they are indebted as aforesaid.

Petitioner therefore prays that the said defendants be cited to appear and answer this petition, and that, after due proceedings had, they be condemned in solido, to pay to petitioner, the aforesaid sum of seven thousand dollars, with interest thereon, at the rate of eight per cent. per annum, from the 23d day of December, 1837, together with three dollars and fifty cents, costs of protest and the costs of this suit.

Petitioner further alleges, that said defendant, John W. Brown, now has eight or ten slaves, and other personal property, within the jurisdiction of this court. He prays for an attatchment against

the property of the said John W. Brown. Petitioner further prays for general relief.

(Signed) BALIE PEYTON,
Atty. for Petitioner.

Copy of Note annexed.

$7000. NATCHEZ, *December 20th*, 1836.

Twelve months after date, I promise to pay to R. M. Roberts, or order, the sum of seven thousand dollars, for value received, payable and negotiable at the Commercial Bank of Natchez, State of Mississippi.

(Signed.) JOHN W. BROWN.
Endorsed by
R. M. ROBERTS,
MOSES GROVES,
JAMES GRAHAM.

Endorsed. Filed, 5 April, 1838.
(Signed.) T. W. COLLINS, *Dy. Clk.*

And afterwards, to wit: on the 4th day of April, 1839, the following answer was filed.

To the honorable the circuit court of the United States, for the 9th judicial circuit, sitting in the eastern district of Louisiana.

The answer of Moses Groves, a citizen of the State of Louisiana, to the petition filed against him in this honorable court, by Robert Slaughter, a citizen of the State of Virginia, humbly shews: that he denies all and singular, the allegations of said petition, except such as are hereinafter admitted; and further answering, respondent alleges that the note sued upon, was given by the drawer, Brown, to the plaintiff, in part payment of the price of certain slaves; that said note was so given, in Natchez, in the State of Mississippi, on or about the 23d December, 1836. That the said Slaughter did introduce into the said State of Mississippi, after the 1st May, 1833, the slaves for which the said note was given as merchandize and for sale, and did sell said slaves so imported, to said Brown, and did take in part payment therfor, said note, which had been endorsed in blank by respondent, to accommodate said Brown, with the express understanding, that the amount for which the blank note should be filled up by him, should not exceed two or three thousand dollars; which understanding or agreement, was well known to said Slaughter when he accepted said note after it had been filled up for seven thousand dollars, with eight per cent. interest thereon.

Respondent alleges that the cause or consideration for which said note was given, is null and void, and that the note itself is null and void and of no effect, because the contract on which it is founded is in direct violation of the Constitution of the State of Mississippi, which expressly prohibits the introduction of slaves into that State, for sale, after 1st May, 1833.

Wherefore, respondent pray that the petition of said Slaughter be dismissed, and that there be judgment in favor of respondent, and that plaintiff pay the costs of suit.

(Signed.) CARTER & BENJAMIN,
Atty. for Deft. M. Groves.

Endorsed. Filed, April 4, 1839.
(Signed.) JNO. WINTHROP, *Clk.*

And afterward, to wit: on the 20th day of May, 1839, was filed the following answer.

To the honorable the circuit court of the United States, for the 9th judicial circuit, sitting in the eastern district of the State of Louisiana.

The answer of Graham, a citizen of the State of Louisiana, to the petition filed against him in this honorable court, by Robert Slaughter, a citizen of the State of Virginia, humbly shews: that he denies all and singular, the allegations of said petition, except such as are hereinafter admitted; and further answering, respondent alleges, that the note sued upon, was given by the drawer, Brown, to the plaintiff, in part payment of the price of certain slaves; that said note was so given, in Natchez, in the State of Mississipipi, on or about the 23d December, 1836. That the said Slaughter did introduce into the State of Mississippi, after the 1st May, 1833, the slaves for which the said note was given as merchandise and for sale, and did sell said slaves so imported, to said Brown, and did take in part payment therefor, said note, which had been endorsed in blank by respondent to accommodate said Brown, with the express understanding, that the amount for which the blank note should be filled up by him, should not exceed two or three thousand dollars; which understanding or agreement, was well known to said Slaughter, when he accepted said note after it had been filled up for seven thousand dollars, with eight per cent. interest thereon.

Respondent alleges that the cause or consideration for which said note was given, is null and void, and that the note itself is null and void and of no effect, because the contract in which it is founded, is in direct violation of the Constitution of the State of Mississippi, which expressly prohibits the introduction of slaves into that State, for sale, after 1st May, 1833.

Wherefore, respondent prays that the petition of said Slaughter

be dismissed, and that there be judgment in favor of respondent, and that plaintiff pay the costs of suit, and pray for trial by jury.

(Signed.) CARTER & BENJAMIN,
Attys. for Deft.

Endorsed. Filed, May 20th, 1839.
(Signed.) J. WINTHROP, *Clk.*

And afterwards, to wit: on the 14 June, 1839, the following agreement was filed, as a statement of facts, by the parties.

SLAUGHTER,
vs.
GROVES & GRAHAM.

SLAUGHTER,
vs.
BROWN et als. } U. S. Circuit Court.

In this case it is consented that the question of fraud is waived by defendants, except as hereinafter reserved; the case is to be defended solely on the question of the legality and validity of the consideration for which the note sued on were given. It is admitted, that the slaves for which said note were given, were imported into Mississippi, as merchandize and for sale, in the year 1835 and 1836, by plaintiff, but without any previous agreement or understanding, express or implied, between plaintiff and any of the parties to the note, but for sale generally, to any person who might wish to purchase. The slaves have never been returned to plaintiff, nor tendered to him by any of the parties to the notes sued on.

(Signed.) CARTER & BENJAMIN, *for Defts.*
(Signed.) PEYTON & PIERSE, *for Plffs.*

Filed, 14th June, 1839.
(Signed.) D. N. HENNEN, *Clk.*
By L. C. HORNSLY, *Dy. Clk.*

Saturday, 22d June, 1839.
Present, Honorable John McKinley, Presiding Judge,
" Honorable P. K. Lawrence, District Judge.

ROBERT SLAUGHTER,
vs.
JOHN W. BROWN, et als. } No. 286.

The court having maturely considered this case, now order, adjudge and decree, that judgment be entered up in favor of the plaintiff, and against the defendants, John W. Brown, R. M. Roberts, Moses Groves and James Graham, jointly and severally, for the sum of seven thousand dollars, with interest, of eight per centum per annum, from the twenty-third day of December, one

thousand eight hundred and thirty-seven, until paid, and for three dollars and fifty cents, costs of protest and costs of suit.

Judgment entered, June 22d, 1839.

Judgment signed, June 29th, 1839.

(Signed.) P. K. LAWRENCE,
U. S. Judge.

CLERK'S OFFICE, U. S. CIRCUIT COURT,
East Dist. of Louisiana.

I do hereby certify that the foregoing transcript contains a true copy of the pleadings statement of facts upon which the cause was tried, and the judgment of the court thereon, in the case of Robert Slaughter, *vs.* Brown, Groves and Graham, as fully as the same remains on record in this office.

Witness my hand, and the seal of said court, at the city
[L. S.] of New Orleans, this twenty-ninth day of May, one thousand eight hundred and forty.

DUNCAN N. HENNEN, *Clk.*

UNITED STATES OF AMERICA, *ss.*

The President of the United States, to the honorable the judges of the circuit court of the United States, for the ninth circuit and eastern district of Louisiana, greeting:

Because, in the record and proceedings, as also in the rendition of the judgment of a plea, which is in the said circuit court, between Robert Slaughter, plaintiff, and John W. Brown, Moses Groves, R. M. Roberts, and James Graham, defendants, a manifest error hath happened to the great damage of the said defendants, Moses Groves, and James Graham, as by their complaint appears. We being willing that error, if any has been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington, on the second Monday of January next, in the said Supreme Court, to be then and there held, that the record and proceedings aforesaid, being inspected, the said Supreme Court may cause further to de done therein to correct that errror, what of right and according to the laws and custom of the United States ought to be done.

Witness the honorable Roger B. Taney, Chief Justice of the Supreme Court, this second Monday of January,
[L. S.] 1840, and the 64th year of the Independance of the United States.

DUNCAN N. HENNEN, *Clerk.*